

UNITED STATES DISTRICT COURT

Northern District of Indiana

South Bend Division

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STEPHEN G. LUDWIG, CLERK
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

ACC CLIMATE CONTROL,
Plaintiff,

v.

BERGSTROM, INC.,
Defendant.

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CASE NO.: 3:07CV0125 TS

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, ACC Climate Control ("ACC"), for its Complaint against Defendant, Bergstrom, Inc. ("Bergstrom"), hereby alleges and states:

JURISDICTION and VENUE:

1. ACC is a corporation organized under the laws of the State of Indiana, having a primary place of business at 22428 Elkhart East Blvd., Elkhart, Indiana 46514.
2. Bergstrom is a corporation organized under the laws of the State of Illinois, having a primary place of business at 2390 Blackhawk Road, Rockford, Illinois 61125.
3. This action involves claims arising under the patent laws of the United States, including Title 35, United States Code §101, et seq.
4. This Court has jurisdiction over the subject matter of the claims pursuant to 28 U.S.C. §1338(a).

5. Bergstrom has regularly conducted business within this judicial district and has repeatedly threatened to bring legal action against a resident of this judicial district by sending letters to that resident in this judicial district. A substantial part of the events giving rise to ACC's claim against Bergstrom arose in this judicial district. Accordingly, venue is proper in this Court pursuant to 28 U.S.C. §1391(b).

CLAIM AGAINST BERGSTROM:

6. The United States Patent Office issued at least two patents to Bergstrom, Patent Nos. 6,276,161 and 6,889,762, each generally relating to air conditioning systems for motor vehicles. Bergstrom has asserted to ACC that it has at least four additional patent applications still pending which also generally relate to air conditioning systems for motor vehicles.

7. Bergstrom has asserted that certain of ACC's products, particularly its TropicCool Power Plus system for "No-Idle" cooling of motor vehicles infringes upon the two issued patents and will infringe upon the four pending patents when those patents issue.

8. Bergstrom has repeatedly threatened to sue ACC for that patent infringement and to enjoin ACC's sale of its products and to collect substantial money damages from ACC.

9. ACC's accused products do not infringe upon those patents. ACC has explained to Bergstrom in detail why Bergstrom is in error in its infringement accusations. However, Bergstrom has not withdrawn its accusations, and ACC has the definite and firm belief that Bergstrom will continue to make those accusations to the detriment of ACC's marketing efforts and to disrupt ACC's sales of the accused products.

10. The U.S. Patent Office erroneously issued those patents to Bergstrom, omitting full and

proper consideration of relevant prior art, especially in light of the ordinary level of skill in the art.

11. Bergstrom's actions put ACC's marketing efforts and sales of the accused products at substantial risk of litigation. ACC desires a resolution of this dispute so that it can know for certain what products it can market without risk of patent infringement liability.

12. Accordingly, a case of actual controversy exists between the parties and within the jurisdiction of this Court that is now ripe for a declaration of the rights of the parties by this Court under 28 U.S.C. §2201.

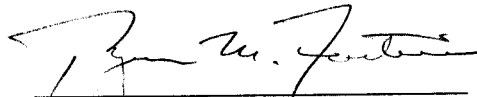
RELIEF SOUGHT:

ACC requests this Court enter Judgement against Bergstrom, declaring that:

- A. ACC does not infringe upon either of the issued patents,
- B. ACC is not a willful infringer even if its products did infringe upon those issued patents,
- C. ACC is not liable to Bergstrom for any damages on account of the issued patents,
- D. The issued patents were not validly issued to Bergstrom, and
- E. All such other relief as may be just and proper.

Dated: March 23, 2007

Respectfully submitted,



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